

**** E-filed August 22, 2011 ****

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ACCOUNTANCY CORPORATION

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

BANK OF MONTREAL, individually and
as Administrative Agent,

Plaintiff,

vs.

STOUGHTON DAVIDSON
ACCOUNTANCY CORPORATION,

Defendant.

Case No. 5:11-cv-03245-HRL

**STIPULATION AND ~~PROPOSED~~
ORDER RE CONTINUANCE OF
INITIAL CASE MANAGEMENT
CONFERENCE AND RELATED
DEADLINES**

Complaint Filed: June 30, 2011
Trial Date: Not Set

1 All parties to this action hereby stipulate and request as follows:

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3 WHEREAS,

4 1. Plaintiff in this action is BANK OF MONTREAL, individually and as
5 Administrative Agent. Defendant herein is STOUGHTON DAVIDSON
6 ACCOUNTANCY CORPORATION;

7
8 2. The Complaint in this case was filed on June 30, 2011. [Document 1] Plaintiff
9 granted one extension of time for Defendant to file an answer or otherwise respond to the
10 Complaint herein, from August 2, 2011 to August 15, 2011, notice of which was filed on
11 July 18, 2011. [Doc 12-2] Plaintiff's counsel has informally granted Defendant another
12 short extension of time to file an answer or first response, through Friday, August 19, 2011.

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14 3. The parties have been engaged in direct, unfacilitated settlement negotiations
15 through counsel over the past few months. The parties have now agreed to formally
16 mediate their dispute using the services of a third party neutral mediator, and they have
17 agreed to submit to the US District Court, Northern District Mediation Program.

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19 4. In order to facilitate the mediation process and increase the chances of a
20 successful resolution of the claim before litigation begins in earnest, before dispositive or
21 other motions are filed and heard, and before the efforts of the Court are needed, the
22 parties seek the permission of the Court to continue the initial Case Management
23 Conference (currently scheduled for September 13, 2011) and to continue the other related
24 deadlines accordingly. [See Order Setting Initial Case Management Conference and ADR
25 Deadlines, Doc 7]

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27 5. The Parties hereto have also discussed the fact that Defendant has planned to
28

1 make a motion under FRCP 12(b)(3) for change of venue from the Northern District to
 2 the Eastern District of this Court, and a real party in interest/necessary party motion under
 3 Rule 17 and/or Rule 19. The parties hereto expressly agree that this Stipulation and the
 4 parties' agreement to participate in the Northern District Mediation Program shall not
 5 constitute, nor shall it be construed as or operate as, a waiver of any of Defendant's rights
 6 herein, including the right to file any such jurisdictional or other initial motions at the
 7 outset of this case, and Defendant expressly reserves the right to file such motion or
 8 motions as its first response to the Complaint on file herein. The parties further agree that
 9 nothing in this Stipulation shall be construed as or operate as a waiver of any rights,
 10 remedies, claims, causes of actions or defenses of Bank of Montreal herein.

11
 12 BASED ON THE FOREGOING, the Parties hereby stipulate and request that the
 13 Court grant them the following relief:

14
 15 1. That the Case Management Conference, currently scheduled in this case as
 16 follows [see Doc 7], be continued as follows, or to a date in the future at the discretion of
 17 the court:

18 Current CMC Date

Proposed New CMC Date

19 September 13, 2011

December 13, 2011

20
 21 2. The parties further request that the other deadlines provided for in the Court's
 22 Order Setting Initial Case Management Conference and ADR Deadlines be continued
 23 accordingly. The Parties hereto agree and suggest the following new deadlines:

24 Current Date(s)

Event

Proposed New Due Date(s)

25 8/23/2011

Last Day to:

26 Meet and confer re Early
 27 Settlement and ADR
 28 Process selection

9/6/2011

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STIPULATION AND ~~PROPOSED~~ ORDER RE
 CONTINUANCE OF INITIAL CASE
 MANAGEMENT CONFERENCE AND
 RELATED DEADLINES

1	Meet and confer re Initial	
2	Disclosures and Discovery Plan	11/22/2011
3	File ADR Certification Form	
4	Signed by parties and Counsel	9/6/2011
5	File Stipulation to ADR Process	9/6/2011
6	9/6/2011 Last day to file Rule 26(f) Report,	
7	Complete initial disclosures or	
8	State objection in Rule 26(f)	
9	Report and file Case	
10	Management Statement	12/6/2011
11	9/13/2011 Initial Case Management	
12	Conference (in Courtroom 2,	
13	5 th Floor, San Jose, at 1:00 p.m.)	12/13/2011
14	8/19/2011 Last day for Defendant to file	
15	Answer or Response to	
16	Complaint	12/6/2011

17 SO STIPULATED.

18 Dated: 8/16/11

CHAPMAN AND CUTLER LLP



TODD R. DRESSEL, ESQ.
Attorneys for Plaintiff Bank of
Montreal, Individually and as
Administrative Agent

21 Dated: 8/16/11

FARBSTEIN & BLACKMAN, APC



JOHN S. BLACKMAN, ESQ.
Attorney for Defendant Stoughton
Davidson Accountancy Corporation

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ORDER

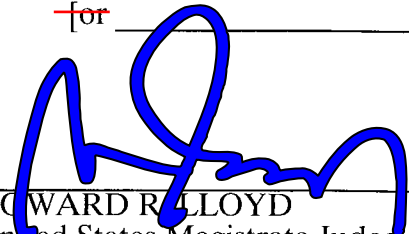
Based on the foregoing stipulation and being in the interests of justice, the Court orders the following changes to its current scheduling order [Doc 7]:

<u>Current Date(s)</u>	<u>Event</u>	<u>New Due Date(s)</u>
9/13/2011	Case Management Conference	12/13/2011
		[or _____]
8/23/2011	Last Day to:	
	Meet and confer re Early Settlement and ADR Process selection	9/6/2011
		[or _____]
	Meet and confer re Initial Disclosures and Discovery Plan	11/22/2011
		[or _____]
	File ADR Certification Form Signed by parties and Counsel	9/6/2011
		[or _____]
	File Stipulation to ADR Process	9/6/2011
		[or _____]
9/6/2011	Last day to file Rule 26(f) Report, Complete initial disclosures or State objection in Rule 26(f) Report and file Case Management Statement	12/6/2011
		[or _____]
9/13/2011	Initial Case Management Conference (in Courtroom 2, 5 th Floor, San Jose, at 1:00 p.m.)	12/13/2011
		[or _____]
8/19/2011	Defendant's Answer or First Response to Complaint	12/6/2011

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SO ORDERED.

Dated: August 22, 2011

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HOWARD R. LLOYD
United States Magistrate Judge